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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**GLENN H. SONSTENG, Personal  
Representative of the Estate of EDNA M.  
SONSTENG, Deceased,**

Plaintiff,

v.

**THE DOMINICAN SISTERS OF  
ONTARIO, INC., an Oregon non-profit  
corporation, dba HOLY ROSARY  
MEDICAL CENTER; JOSEPH J.  
BOYLE, M.D., and FRANK J. SOKAS,  
M.D.,**

Defendants.

Civil No. 2:06-CV-476-SU

**PLAINTIFF'S RESPONSE  
TO DEFENDANTS' OBJECTIONS  
TO FINDINGS AND  
RECOMMENDATION**

Defendant JOSEPH J. BOYLE and defendant THE DOMINICAN SISTERS OF  
ONTARIO, INC., DBA HOLY ROSARY MEDICAL CENTER, object to the following statement  
in the Court's Findings and Recommendation:

"[S]hould plaintiff recover under the alternative survival theory, the statutory cap may not apply .... If ... the recovery is not under the wrongful death statute, no cap should apply." *Findings and Recommendation*, p. 16.

Defendant FRANK J. SPOKAS objects to the following statements in the Court's Findings and Recommendation:

Nothing in ORS 30.075 prohibits plaintiff from continuing an action for personal injury as a survival action and maintaining in the same complaint an action for wrongful death. . . . Defendants' Motion to Dismiss the survival claim should be denied.

\* \* \*

"[S]hould plaintiff recover under the alternative survival theory, the statutory cap may not apply." *Findings and Recommendation*, pp. 15-16.

Plaintiff argues that all such findings are appropriate and that defendants' objections should be denied. Plaintiff relies on the memorandum filed simultaneously herewith.

DATED: July 11, 2007

JOLLES & BERNSTEIN, P.C.

  
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Bernard Jolles, OSB #63039  
Candice Rutter, OBS #02520  
Attorneys for Plaintiff

## CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2007, I served the foregoing **PLAINTIFF'S RESPONSE TO DEFENDANTS' OBJECTIONS TO FINDINGS AND RECOMMENDATION IN SUPPORT OF PLAINTIFF'S RESPONSE TO DEFENDANTS' OBJECTIONS TO FINDINGS AND RECOMMENDATION** on:

Carl Burnham, Jr.  
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Attorneys for Defendant Boyle

by the means, and at the addresses, indicated.

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of Attorneys for Plaintiff